

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)

Section 257 Proceeding to)
Identify and Eliminate)
Market Entry Barriers for)
Small Businesses)

GN Docket No. 96-113

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COMMENTS OF THE NATIONAL BLACK CAUCUS OF STATE LEGISLATORS
TELECOMMUNICATIONS & ENERGY COMMITTEE
HONORABLE ALBERT VANN, CHAIRMAN

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The National Black Caucus of State Legislators (NBCSL) is a non-profit organization headquartered in Washington D.C. dedicated to the development and promotion of educational, research and training programs designed to enhance the effectiveness of African American state officials as they consider legislation and issues of public policy that impact directly or indirectly on the constituents of their respective states. Founded in 1977 by 90 African-American state legislators at a meeting in Nashville, Tennessee, today the National Black Caucus of State Legislators (NBCSL) represents over 500 members in 44 states and the U.S. Virgin Islands.

The Telecommunications Act of 1996 has altered dramatically the federal/state landscape, and NBCSL is currently engaged in activities to provide guidance on the redrafting of state policy and oversight in telecommunications. As Chair of the Telecommunications and Energy Committee of the National Black Caucus of State Legislators, I recently conducted a regulatory forum to draft regulatory and legislative recommendations that will

allow states to promulgate effective universal service regulations and oversight considerations in an era of competition. Most importantly, NBCSL recommendations will assure that African-American concerns regarding affordability; access to current and advanced services; and opportunities for business and employment will be of high priority.

The 1996 Act has required state legislators to pay close scrutiny to the impact of Federal activity on the fortunes of their constituents. It is in that regard that I commented on the NPRM creating the Federal/State Joint Board on Universal Service.¹ The continuing need for scrutiny motivates my comments on behalf of African-American state legislators in this inquiry.

It has been a central purpose of African-American elected officials to promote opportunities for entrepreneurship in our communities. Nowhere has that been of critical importance than in the communications industry. The recognition that the key to determining the voices, images and ideas that reflect the diversity of ones community lies in the ownership of the means of information distribution has long been a central issue before the FCC with regard to the broadcast and cable media. As legislators, we are now looking at how state government - both as regulator and fulfilling its responsibility to stimulate economic development - can leverage opportunities for minority businesses as telecommunications and information providers. A unique opportunity

¹ Notice of Proposed Rulemaking and Order Establishing Joint Board--FCC 96-93, CC Docket No. 96-45, March 8, 1996, Comment April 12, 1996.

presents itself for state/federal cooperation in this regard.

Despite this moment of opportunity, there is great concern on the part of African-Americans regarding the Federal Government's commitment to equal opportunity in business and employment. The recent Adarand decision² and the Congressional revocation of the tax certificate³ have appeared to immobilize the Commission's ability to fashion race based remedies to address the lack of business participation on the part of African-Americans. The Commission's concern that it's record documenting discrimination and minuscule ownership participation on the part of African-American's is inadequate to stand up to the strict scrutiny the Adarand decision requires appears to be a reflection of the anti-affirmative action hysteria that has gained currency in this country rather than the Federal Government's realistic ability to respond to the growing erosion of economic opportunity on the part of African-Americans. NBCSL's reply comments will address these concerns in greater detail and identify policies for coherent action.

²Adarand Constructors, Inc. v. Peña, 115 S.Ct. 2097 (1995)

³ sec. 309(j)(4)(D), eliminated by Congress, Self-Employed Health Insurance Act of 1995, Pub. L. No. 104-7, sec. 2, 109 Stat. 93 (1995).